

EXHIBIT 1

INTRODUCTION

Respondent Lorene Scalora was a member of the Planning Commission for the City of Pinole from October 6, 1998 until May 20, 2001. On January 11, 1999, applicant DKB Homes had a proposed preliminary plan before the Pinole Planning Commission wherein DKB Homes applied for permission to subdivide a 7.8 acre parcel into fifty-four lots for the purpose of building fifty-two single family homes. At the time the DKB application was pending, Commissioner Scalora owned a home at 706 Live Oak Lane, in the "Pinole Shores I" subdivision.

At the January 11, 1999 Planning Commission meeting, Respondent Lorene Scalora participated in discussions about, and voted on, the proposed preliminary plan of DKB Homes to build a housing development, the border to which was within 300 feet of Respondent Scalora's property located at 706 Live Oak Lane.

For the purposes of this stipulation, Respondent's violation of the Political Reform Act (the "Act")¹ is stated as follows:

COUNT 1: On January 11, 1999, Respondent Lorene Scalora made and participated in making a governmental decision in which she knew or had reason to know she had a financial interest, specifically, the proposed preliminary plan of DKB Homes, in violation of Section 87100 of the Government Code.

SUMMARY OF THE LAW

Section 81001, subdivision (b) states that public officials should perform their duties in an impartial manner, free from bias caused by their financial interests or the financial interests of persons who have supported them. In order to accomplish this purpose, Section 87100 prohibits a public official from making, participating in making, or attempting to use his or her official position to influence any governmental decision in which the official knows or has reason to know that he or she has a financial interest.

Under Section 87103, subdivision (b) as it was in effect in 1999, a public official had a financial interest in a decision if it was reasonably foreseeable that the decision would have a material financial effect on any real property in which the public official had a direct or indirect interest worth one thousand dollars (\$1,000) or more.

In 1999, an interest in real property included any leasehold, beneficial or ownership interest, or an option to acquire such an interest in real property located in the jurisdiction that was owned

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All references to "Section(s)" are to the aforementioned Government Code unless otherwise indicated. Commission regulations appear at Title 2, California Code of Regulations, section 18109, *et seq.* All references to "Regulation(s)" are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated. It should be noted that there have been recent amendments to the conflict of interest laws. The statutes and regulations referenced herein are as they existed in September 1999 when the violation occurred.

directly, indirectly or beneficially by the public official, or a member of his or her immediate family, if the fair market value was one thousand dollars (\$1,000) or more. (Sec. 82033.)

In September 1999, any reasonably foreseeable financial effect on real property in which a public official had an economic interest, and which real property was *directly* involved in a decision before the official's agency, was deemed material. (Reg. 18705.2, subd. (a).) When the official's real property interest was *indirectly* involved in the decision, the effect of the governmental decision was "material" as to real property in which the official had a direct, indirect or beneficial ownership interest, if any part of the official's real property was located within a 300 foot radius of the boundaries of the property which was the subject of the decision, unless the decision would have no effect on the official's real property interest. (Reg. 18705.2, subd. (b).)

SUMMARY OF THE FACTS

Respondent Lorene Scalora was a member of the Planning Commission for the City of Pinole from October 6, 1998 until May 20, 2001. On January 11, 1999, applicant DKB Homes had a proposed preliminary plan before the Pinole Planning Commission, wherein DKB Homes applied for permission to subdivide a 7.8 acre parcel into fifty-four lots, for the purpose of building fifty-two single family homes with a mini-park and small common area. At the time the DKB application was pending, Commissioner Scalora owned a home at 706 Live Oak Lane, in the "Pinole Shores I" subdivision, that was less than 300 feet from DKB Homes' proposed subdivision. Ms. Scalora was also President of the Pinole Shores Homeowner's Association.

Before the January 11, 1999 meeting, Pinole Assistant City Attorney Liane Randolph called each of the Planning Commissioners by telephone. In her conversation with Commissioner Scalora, Ms. Randolph explained the basic rules regarding conflicts of interest. Ms. Randolph told Commissioner Scalora that if her property was close to 300 feet from the DKB parcel, or if the other conflict rules applied, she should abstain from participating in decisions regarding the DKB Homes application.

On January 11, 1999, Commissioner Scalora asked questions and participated in a discussion regarding the DKB Homes application. Commissioner Scalora then voted against the application. The application failed by a vote of three to two.

DKB Homes appealed the Planning Commission's denial of its preliminary plan to the City Counsel, which reversed the Planning Commission's denial. On April 12, 1999, the proposal was back before the Planning Commission for consideration of the final development plan and tentative map agreement. At that meeting, Respondent Scalora excused herself from the discussion, and from voting, and left the dais. Respondent Scalora then appeared before the Commission as a member of the public and commented on her opposition to the DKB Homes plan. Both the final plan and the tentative map were then approved by the Commission.

CONCLUSION

Respondent was aware of the conflict of interest provisions of the Act. Despite owning real property near the proposed DKB Homes development, Respondent chose to participate actively in a decision which could affect her own real property interest.

This matter consists of one count which carries a maximum possible administrative penalty of Two Thousand Dollars (\$2,000.00). This case is aggravated by the fact that, prior to the January 11, 1999 meeting, the Assistant City Attorney reviewed the conflict of interest laws with Respondent and advised Respondent not to vote. Respondent had also been advised previously by the city planner that she appeared to have a conflict of interest and should not vote.

Accordingly, the facts of the case justify imposition of the agreed upon penalty of two thousand dollars (\$2,000.00).